IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2371 OF 2006

M/s.Jal Ltd. ..Petitioner

Vs.

Union of India & Ors. ..Respondents

Mr.Madhur R.Baya for the Petitioner.
Mr.L.S.Shetty with Mr.A.M.Sethna for the Respondents.

CORAM :- DR.S.RADHAKRISHNAN &
V.C.DAGA, JJ.

DATE : 30TH APRIL, 2007

P.C.

1. Heard the learned Counsel for the parties.

Rule. Rule is made returnable forthwith. The learned Counsel for the Respondents waives service. By consent, taken up for hearing.

2. By this Petition, the Petitioner is challenging the pre-deposit order passed by the Additional Director General of Foreign Trade dated 9th/11th May,2006, whereby the Petitioner was directed to deposit 25% of the penalty amount so as to enable the Appellate Authority to hear the Appeal.

3. The main grievance of the Petitioner is that even the show cause notice was not served before the Order-in-Original was passed on 07/02/2005 by the Additional Director General of Foreign Trade. In view of the dispute whether the original notice was at all

served on the Petitioner before the Order-in-Original was passed, Respondent was directed to visit the premises and file inspection report.

4. We have perused the report dated 26/04/2007. From the said report, it is doubtful that the Petitioner was duly served before the aforesaid Order-in-Original was passed. Having regard to the facts and circumstances of the case, this is a fit case to quash and set aside the order of pre-deposit of 25% of the penalty amount.

5. Accordingly, we quash and set aside the order dated 9th/11th May,2006 whereby the aforesaid pre-deposit order was passed. The Additional General of Foreign Trade is directed to dispose of the pending Appeal, as expeditiously as possible, strictly on its own merits in accordance with law. Rule is made absolute accordingly.

(V.C.DAGA,J.) **(DR.S.RADHAKRISHNAN,J.)**